

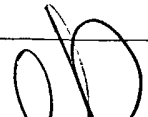


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,986	12/06/2002	Bradley M. Richards	IN-5533	4523
26922	7590	08/20/2004	EXAMINER	
BASF CORPORATION ANNE GERRY SABOURIN 26701 TELEGRAPH ROAD SOUTHFIELD, MI 48034-2442			GARRETT, DAWN L	
			ART UNIT	PAPER NUMBER
			1774	
DATE MAILED: 08/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/065,986	RICHARDS ET AL.	
	Examiner	Art Unit	
	Dawn Garrett	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to the amendment dated May 24, 2004. Claims 1, 2, and 5-7 were amended. Claims 3 and 4 are cancelled. Claims 1, 2, and 5-8 are pending.

2. Claim 1 is objected to because of the following informalities:

Applicant's amendment added the words "automobile body" between "said" and "substrate". The substrate previously recited in the claim is not limited to an automobile substrate, so the use of the phrase "said automobile body substrate" is improper since there is inconsistency in the description of the substrate. Appropriate correction is required.

3. The drawings remain objected to for the reasons set forth in the Office action mailed January 23, 2004, paragraph 1.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The rejection of claims 3 and 4 under 35 U.S.C. 102(b) as being anticipated by Rosa et al. (US 5,518,561) is withdrawn due to the cancellation of claims 3 and 4.

6. Claims 1, 2, and 5-8 are again rejected under 35 U.S.C. 102(b) as being anticipated by Rosa et al. (US 5,518,561). Rosa et al. teaches a graphic display (see front page). The EL lamp layer (16) of figure 2 reads upon the instant "color providing film layer" and comprises electroluminescent material (see col. 4, lines 1-14). The translucent film (18) reads upon the instant "mid-coat film layer" formed on the color providing film (see figure 2 and col. 4, lines 19-24). The protective layer (24) depicted in figure 2 reads

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upon the “at least partially-transparent clearcoat film layer” (see figure 2 and col. 3, lines 61-67). The EL lamp is disclosed as being energized with electric current per instant claim 2 (see col. 4, lines 16-19). The EL lamp, translucent film, and protective layer are disposed on adhesive (26) (see figure 2). The EL material of the EL lamp (16) is comprised of a composition of luminescent particles and resin (see figure 3) (see also col. 4, lines 8-10). Instant claim 5 is considered to be a product by process limitation (see MPEP 2113). The translucent film (18), which reads upon the instant “mid-coat layer” comprises an inked image per the instant claim 6 limitation requiring an opaque pigment for selective masking of the color providing film layer (see figure 2 and col. 4, lines 20-24). Per instant claim 7, the inked images are disclosed as capable of having light pass through the images (see col. 4, lines 35-40).

7. The rejection of claim 3 under 35 U.S.C. 102(b) as being anticipated by JP 11-059267 (see English abstract for reference) is withdrawn due to the cancellation of claim 3.

8. Claims 1 and 2 are again rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-059267 (see English abstract for reference). JP 11-059267 discloses a thin moisture-proof EL light. The fluorescent layer (20) reads upon the color providing layer. The transparent electrode layer (18) reads upon the mid-coat layer. The protection film (16) reads upon the instant clearcoat film. The EL light emitting mark is disclosed as a decal and comprises adhesive (26) for mounting to a member. The electrodes connect to an electrical source per instant claim 2.

9. The rejection of claim 4 under 35 U.S.C. 102(e) as being anticipated by Abe et al. (US 6,441,551) is withdrawn due to the cancellation of claim 4.

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10. Claims 1, 2, and 5 are again rejected under 35 U.S.C. 102(e) as being anticipated by Abe et al. (US 6,441,551). Abe et al. discloses an electroluminescent device and apparatus. In Figure 3, layer (8) is a luminescent layer comprising luminescent particles, which reads upon the instant “color-providing film layer” per instant claim 1 (see fig. 3 and col. 5, lines 12-65). In Figure 3, the transparent conductive layer (2) reads upon the instant claim 1 “at least partially-transparent mid-coat film layer” (see figure 3). In Figure 3, the filter layer (9) reads upon the instant claim 1 “at least partially-transparent clearcoat film layer” (see figure 3 and col. 8, lines 13-17). The electroluminescent device is connected to an electric power source per instant claim 2 (see col. 2, lines 1-21). The luminescent layer is formed from a combination of paint and luminescent particles (see col. 5, lines 25-65) per the instant claim 1 requirement of a color-providing composition applied to said substrate. Claim 5 is considered to be a product-by-process claim (see MPEP 2113).

11. Claim 8 is again rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. (US 6,441,551). Abe et al. is relied upon for the rejection of claim 1 as set forth above. Abe et al. teaches a luminescent layer (8) (see figure 3) which reads upon the color-providing film of claim 1. Abe et al. fails to teach specifically the luminescent layer comprises further “an at least *partially-transparent pigment* in combination with said electroluminescent phosphor”. Abe et al. does teach further kinds of particles in addition to the luminescent particles may be used in the luminescent layer such as particles of glass and coloring materials (see col. 7, lines 57-60). It would have been obvious to one of ordinary skill in the art to select transparent glass and further coloring materials including partially transparent pigments to use with the luminescent particles,

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because Abe et al. teaches such further components may be selected for the luminescent layer.

Response to Arguments

12. Applicant's arguments filed May 24, 2004 have been fully considered but they are not persuasive.

With regard to the rejection over Rosa et al., applicant argues "The instant claims are distinguished from Rosa et al. as the instant claims teach a color providing coating composition containing electroluminescent phosphor that is applied to directly to an automobile substrate...In the instant claims there is no lamp bonded to the substrate..." . In response, the examiner submits the instant claims do not require that the coating composition be directly adjacent the substrate. The claims only state that the composition is "applied to" the substrate. Since the claim uses the term "comprising" to describe the product's components, other layers or components may be present in the product.

With regard to the rejection over JP 11-059267, applicant argues "The instant claims are distinguished from the reference as the instant claims define a phosphorescent coating applied directly to an automotive substrate and do not define an EL light emitting decal adhesively mounted to the vehicle." As similarly argued above, the examiner submits the instant claims do not require that the coating composition be directly adjacent the substrate. The claims only state that the composition is "applied to" the substrate. Since the claim uses the term "comprising" to describe the components, other layers or components may be present in the product. In addition, a decal affixed to a car is deemed to read upon the composition "applied to" a substrate.

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With regard to the rejection over Abe et al., applicants argue “The instantly defined invention does not include a liquid crystal layer.” Again, the examiner submits that other components and layers may be present due to the claim 1 use of the word “comprising”. Applicant further argues “The instant claims define that the vehicle itself forms the substrate that is illuminated”. The examiner submits that the claims only require that the phosphor is excited by electrical induction. Applicants argue there is no transparent conductive layer and no rear electrode. Again, the examiner notes that use of the word “comprising” in the claims does not exclude other components or layers from being present in the product.

With regard to applicant’s claim 8 arguments over Abe et al., the examiner submits that Abe et al. does teach the luminescent layer comprises a mixture (composition) of paint and luminescent particles (see col. 5, lines 25-26). The application process of the composition to form the layer is not considered to be patentably significant, since the claim under consideration is a product claim (please see MPEP 2113 discussion of product-by-process claims).

The examiner further notes that applicant’s recitation of an “automobile body substrate” does not distinguish the claims over the art since no particular material or shape is designated for the automobile body substrate. Automobiles are known to comprise a number of material such as plastic, metal, and glass.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

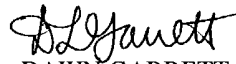
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is 571-272-1523. The examiner can normally be reached Monday through Friday during normal business hours. Please allow the examiner twenty-four hours to return your call.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAWN GARRETT
PRIMARY EXAMINER
ART UNIT 1774

D.G.
August 16, 2004